

## **LR 16.1 PRE-TRIAL PROCEDURES**

### **LR 16.1.1 Scheduling and Pretrial Conferences - Generally.**

A. There shall be two phases of pretrial scheduling as set forth in LR 16.1.2 -- a discovery phase to be governed by an initial scheduling order and a post-discovery phase to be governed by a final scheduling order.

B. As soon as practicable but not later than thirty (30) days after the appearance of a defendant, a judicial officer shall enter an order setting forth the date and time of [a] an initial scheduling conference and the dates by which the parties shall confer and file the written report required by Fed.R.Civ.P. 26(f), which report shall be in the form set forth at Appendix B to these Rules. A judicial officer is either a United States District Judge or a United States Magistrate Judge. The judicial officer may defer [a] the initial scheduling conference if a motion that would dispose of all of the claims within the court's original jurisdiction is pending.

C. The judicial officer may conduct such further conferences as are consistent with the circumstances of the particular case and this Rule, and may revise any prior scheduling order for good cause.

D. At each conference each party not appearing pro se shall be represented by counsel who shall have full authority to bind the party in all pretrial matters and shall have authority to discuss settlement of the action. All counsel and unrepresented parties shall have sufficient knowledge of the claim asserted, defenses presented, relief sought and legal issues fairly raised by the pleadings so as to allow for a meaningful discussion of all such matters at each conference.

E. If ordered by the judicial officer or otherwise required by these Rules, counsel shall ensure that the parties are available, either in person or by telephone, at any conference, except that a governmental party may be represented by a knowledgeable delegate.

F.. Upon request or sua sponte, the judicial officer may permit attendance by telephone of counsel or unrepresented parties at any conference.

G. Scheduling conferences shall not be conducted in any civil action that is referred to arbitration pursuant to LR 16.2, or in civil actions involving Social Security claims, bankruptcy appeals, habeas corpus, government collection and prisoner civil rights cases, unless the judicial officer to whom the case is assigned directs otherwise.

H. The judicial officer shall, after consultation with the parties, designate each civil action either Track I or II, as defined in LR 16.1.3.I.

I. The judicial officer shall advise each party of the provisions of LR 16.2 (Voluntary Arbitration).

### **LR 16.1.2 Scheduling Orders and Case Management.**

A. Initial Scheduling Order. At the initial scheduling conference or as soon thereafter as practicable, the judicial officer shall enter [a] an initial scheduling order that sets forth dates for the following:

1. Filing motions to amend pleadings or add new parties;
2. Completion of fact and expert discovery including the dates for expert disclosures required by Fed.R.Civ.P. 26(a)(2) and the dates by which depositions of experts shall be completed;
3. [Designate,] Designation, if appropriate, of the case for arbitration, mediation or appointment of a special master or other special procedure[.]; and
4. A post-discovery status conference to be held within thirty (30) days after the completion of discovery. The initial scheduling order may also include:
5. Modifications of the times for, and extent of, disclosures under Fed.R.Civ.P. 26(a) and 26(e)(1);
6. Such limitations on the scope, method or order of discovery as may be warranted by the circumstances of the particular case to avoid duplication, harassment, delay or needless expenditure of costs;
7. The date to file dispositive motions at an early stage of the proceedings (i.e., before completion of fact discovery or submission of experts' reports); and
8. Any other matters appropriate in the circumstances of the case,

B. Final Scheduling Order. At the post-discovery status conference or as soon thereafter as practicable, the judicial officer shall enter a final scheduling order that sets forth dates for the following:

1. Filing dispositive motions and responses thereto;
2. Filing motions *in limine* and motions to challenge the qualifications of any proposed expert witness and/or the substance of such expert's testimony;
3. Filing pretrial statements required by LR 16.1.4;
4. Further conferences before trial including the final pretrial conference. The final scheduling order may also include:
5. The presumptive trial date; and

6. Any other matters appropriate in the circumstances of the case.

E. In a civil action arising under 18 U.S.C. §§ 1961-1968, the judicial officer may require a RICO case statement to be filed and served in a form approved by the court.

F. Before filing a motion to modify the scheduling order, counsel or an unrepresented party shall confer with all other counsel and unrepresented parties in an effort to reach agreement on the proposed modification. Unless a motion to modify the scheduling order is filed jointly by all parties, any motion to modify shall be accompanied by a certificate of the movant denominated a Scheduling Motion Certificate stating that all parties have conferred with regard to the proposed modification and stating whether or not all parties consent thereto.

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF  
PENNSYLVANIA**

[CAPTION]

[JUDICIAL OFFICER(S)]

**Fed. R. Civ. P. 26(f) REPORT OF THE PARTIES**

Counsel for the parties and unrepresented parties shall confer regarding the matters identified herein and prepare a signed report in the following form to be filed at least 21 days before the Initial LR 16.1 Scheduling Conference or at such other time as ordered by the court. This report form may be downloaded from the Court's web site as a word-processing document and the information filled in as requested on the downloaded form. The dates to be provided in the report are suggested dates and may be accepted or modified by the Court.

1. **Identification of counsel and unrepresented parties.** Set forth the names, addresses, telephone and fax numbers and e-mail addresses of each unrepresented party and of each counsel and identify the parties whom such counsel represent:
2. **Set forth the general nature of the case** (patent, civil rights, anti-trust, class action, etc):
3. **Date Rule 26(f) Conference was held, the identification of those participating therein and the identification of any party who may not yet have been served or entered an appearance as of the date of said Conference:**
4. **Date of Rule 16 Initial Scheduling Conference as scheduled by the Court:** (Lead Trial Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference with their calendars in hand for the purpose of scheduling other pre-trial events and procedures, including a Post-Discovery Status Conference; Counsel and unrepresented parties shall attend the Rule 16 Initial Scheduling Conference prepared to discuss the anticipated number of depositions and identities of potential deponents and the anticipated dates by which interrogatories, requests for production of documents and requests for admissions will be served):
5. **Identify any party who has filed or anticipates filing a dispositive motion pursuant to Fed. R. Civ. P. 12 and the date(s) by which any such anticipated motion may be filed:**
6. **Designate the specific Alternative Dispute Resolution (ADR) process the parties have discussed and selected, if any, and specify the anticipated time frame for completion of the ADR process. Set forth any other information the parties wish to communicate to the court regarding the ADR designation:**
7. **Set forth any change that any party proposes to be made in the timing, form or requirements of Fed. R. Civ. P. Rule 26(a) disclosures, whether such change is**

**opposed by any other party, whether any party has filed a motion seeking such change and whether any such motion has been ruled on by the Court:**

- 8. Subjects on which fact discovery may be needed.** (By executing this report, no party shall be deemed to (1) have waived the right to conduct discovery on subjects not listed herein or (2) be required to first seek the permission of the Court to conduct discovery with regard to subjects not listed herein):
- 9. Set forth suggested dates for the following** (The parties may elect by agreement to schedule a Post-Discovery Status Conference, as identified in Paragraph 12, below, at the conclusion of Fact-Discovery rather than at the conclusion of Expert Discovery. In that event, the parties should provide suggested dates only for the events identified in sub-paragraphs 9.a through 9.e, below. The parties shall provide such information even if dispositive motions pursuant to Fed. R. Civ. P. 12 have been or are anticipated to be filed. If there are dates on which the parties have been unable to agree, set forth the date each party proposes and a brief statement in support of each such party's proposed date. Attach to this report form a proposed Court Order setting forth all dates agreed to below and leaving a blank for the insertion of a date by the Court for any date not agreed to):
  - a. Date(s) on which disclosures required by Fed. R. Civ. P. 26(a) have been or will be made:**
  - b. Date by which any additional parties shall be joined:**
  - c. Date by which the pleadings shall be amended:**
  - d. Date by which fact discovery should be completed:**
  - e. If the parties agree that discovery should be conducted in phases or limited to or focused on particular issues, identify the proposed phases or issues and the dates by which discovery as to each phase or issue should be completed:**
  - f. Date by which plaintiff's expert reports should be filed:**
  - g. Date by which depositions of plaintiff's expert(s) should be completed:**
  - h. Date by which defendant's expert reports should be filed:**
  - i. Date by which depositions of defendant's expert(s) should be completed:**
  - j. Date by which third party expert's reports should be filed:**
  - k. Date by which depositions of third party's expert(s) should be completed:**
- 10. If the parties agree that changes should be made to the limitations on discovery imposed by the Federal Rules of Civil Procedure or Local Rule or that any other**

**limitations should be imposed on discovery, set forth such changes or limitations:**

- 11. Set forth whether the parties have considered the need for special deadlines, procedures or orders of court dealing with discovery of electronically-stored information** (electronic discovery), including the need for the preservation of discoverable information and the protection of the right to assert privilege(s) after the production of privileged information and if so, set forth the results of such consideration:
- 12. Set forth whether the parties have elected to schedule the Post-Discovery Status Conference following the completion of Fact Discovery or Expert Discovery; in either event the parties shall be prepared at the Post-Discovery Status Conference to discuss and/or schedule the following:** (The parties are not required during their Rule 26(f) Conference to consider or propose dates for the items identified below. Those dates will be determined, if necessary, at the Post-Discovery Status Conference. Lead trial counsel for each party and each unrepresented party are required to attend the Post-Discovery Status Conference with their calendars in hand to discuss those items listed below that require scheduling. In addition, a representative with settlement authority of each party shall be required to attend; representatives with settlement authority of any insurance company providing any coverage shall be available throughout the Conference by telephone):
  - a. Settlement and/or transfer to an ADR procedure ;**
  - b. Dates for the filing of expert reports and the completion of expert discovery as itemized in sub-paragraphs 9.f. through 9.k., above, if the parties elected to defer such discovery until after the Post-Discovery Status Conference**
  - c. Dates by which dispositive motions pursuant to Fed. R. Civ. P. 56, replies thereto and responses to replies should be filed;**
  - d. Dates by which parties' pre-trial statements should be filed;**
  - e. Dates by which *in limine* and *Daubert* motions and responses thereto should be filed;**
  - f. Dates on which motions *in limine* and *Daubert* motions shall be heard;**
  - g. Dates proposed for final pre-trial conference;**
  - h. Presumptive and final trial dates.**
- 13. Set forth any other order(s) that the parties agree should be entered by the court pursuant to Fed. R. Civ. P. 16(b) or 26(c):**
- 14. Set forth whether the parties anticipate that the court may have to appoint a special master to deal with any matter and if so, specify the proposed role of any such**

**master and any special qualifications that such master may require to perform such role:**

- 15. If the parties have failed to agree with regard to any subject for which a report is required as set forth above, except for proposed dates required in paragraph 9, above, briefly set forth the position of each party with regard to each matter on which agreement has not been reached:**
- 16. Set forth whether the parties have considered the possibility of settlement of the action and describe briefly the nature of that consideration:**

**Respectfully submitted,**

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(Signatures of counsel and unrepresented parties)